

Application Number: 10/597,901
Amendment Dated: August 3, 2009
Office Action Dated: February 3, 2009

REMARKS

This paper is responsive to the Office Action dated February 3, 2009, for which a three (3) month period of response was given. A petition, a fee for a three (3) month extension of time accompanies this paper. No new claims fees are believed due in light of the amendments made herein. Also attached hereto is a Supplemental Information Disclosure Statement containing art cited in a corresponding European patent application search report. The Commission is hereby authorized to charge the fee under 37 C.F.R. § 1.17(p) associated with the filing of this Supplemental Information Disclosure Statement to the Deposit Account noted below. Furthermore, should any additional claims fees be due, the Commissioner is hereby authorized to charge such claims fees, as well as the necessary extension of time fee and IDS fee, to the Deposit Account No. 50-0959, Attorney Docket No. 089498.0500.

Claims 1 through 5 and 16 are pending in the present application upon entry of the above amended claims. Claims 1, 3, 5 and 16 have been amended. Claims 6 through 15 and 17 through 42 have been cancelled. Applicants reserve the right to file, at any appropriate time, one or more divisional applications directed to any one, or more, of the cancelled claims.

Specifically, claim 1 has been amended to more clearly state that nature of the present invention. Claims 3, 5 and 16 have been amended to address various inadvertent grammatical issues. Accordingly, entry and consideration of the amended claim set and the remarks which follow is believed due and is respectfully requested.

I. The Supplement Information Disclosure Statement Certification:

Since the attached Supplemental IDS is being filed prior to the issuance of a final Office Action, and the fee under 37 C.F.R § 1.17(p) is being submitted, timely review and consideration of the attached Supplemental IDS is believed due under 37 C.F.R. § 1.97 and is hereby requested.

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II. The Restriction/Election Requirement:

The decision on the transverse of the election of Group 1, Species 1 in the Reply dated September 18, 2008 is hereby noted. Given the Examiner's final decision any claims to non-elected embodiments and/or species have been cancelled. As is noted above, the Applicants reserve the right to file, at any appropriate time, one or more divisional applications to any of the cancelled claims.

III. The 37 C.F.R. § 1.83(p)(5) Objection to the Drawings:

The drawings have been objected to under 37 C.F.R. § 1.83(p)(5) for the reasons stated in the Office Action dated February 3, 2009. In light of the objection to the Figures, Applicants' undersigned attorney had amended the specification as noted above. Support for the amendments to the specification is found in the specification, claims and Figures as originally filed. As such, no new matter has been added. Given the amendments made to the specification, it is believed that the objection to the Figures has been rendered moot. As such, withdrawal of the 37 C.F.R. § 1.83(p)(5) objection to the Figures is believed due and is respectfully requested.

IV. The 35 U.S.C. § 102(b) Rejection:

Claims 1, 3 through 5 and 16 have been rejected under 35 U.S.C. § 102(b) over Rhodes (United States Patent No. 5,843,160). Rhodes relates to an expandable intraluminal prostheses for the treatment of aneurismal disease or occlusive disease at a bifurcation of a vessel, duct, or lumen. Each prosthesis includes three expandable, sleeve sections which are arranged to be located in respective portions of the vessel, duct, or lumen contiguous with the bifurcation, and secured together in situ. Sealing mesh can be provided on the prosthesis to prevent the egress of emboli and to permanently secure it in place.

On the other hand, the present invention is directed to a stent comprising: a stent member; a release layer, wherein the stent member is coated with the release layer; and an insoluble fibrous component, wherein the insoluble fibrous component is wrapped

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around the stent, and wherein the insoluble fibrous component is able to form a reinforcing thrombus plug upon degradation of the release layer (emphasis supplied). As can be seen from the disclosure contained in Rhodes, no such arrange is disclosed, taught or suggested therein. As such, the devices of Rhodes will not permit for a time lag between implantation and release of the sealing mesh component, if present. Additionally, the devices disclosed in Rhodes can suffer movement of the mesh at an inopportune time (e.g., prior to implantation), thereby rendering such devices useless for their intended purposes.

On the other hand, the stents of the present invention permit the timely release of the insoluble fibrous component at an appropriate time after implantation. This is important because it permits a medical device formed in accordance with the claimed invention to be handled more rigorously without having to worry about the accidental, untimely release of the insoluble fibrous component.

Since Rhodes does not disclose, teach or suggest each and every feature of the present invention, as recited in pending claim 1, Rhodes cannot anticipate, or render obvious, claims 1, 3 through 5 and 16. For at least the above reason, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1, 3 through 5 and 16 is believed due and is respectfully requested.

V. The 35 U.S.C. § 103(a) Rejection:

Claim 2 has been rejected under 35 U.S.C. § 103(a) over Rhodes (United States Patent No. 5,843,160). Initially, the teachings and shortcomings of Rhodes are discussed above, and are omitted herein for the sake of brevity. Since claim 2 depends directly from claim 1, Rhodes cannot render obvious claim 2 for at least the reason stated above. As such, the 35 U.S.C. § 103(a) rejection of claim 2 is believed to be unfounded, and withdrawal thereof is believed due and is respectfully requested.

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VI. Conclusion:

Accordingly, reconsideration and withdrawal of the 37 C.F.R. § 1.83(p)(5) objection to the Figures, the 35 U.S.C. § 102(b) rejection, and the 35 U.S.C. § 103(a) rejection of claims 1 through 5 and 16 are believed due and are respectfully requested.

For at least the foregoing reasons, at a minimum, claims 1 through 5 and 16 of the present application are believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

Should the Examiner wish to discuss any of the foregoing in more detail, the undersigned attorney would welcome a telephone call.

Respectfully submitted,

/Joseph J. Crimaldi/
Joseph J. Crimaldi, Reg. No. 41,690
Roetzel & Andress
222 South Main St.
Akron, Ohio 44308
(330) 376-2700

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